

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS FAIR HOUSING  
CENTER and HOUSING WORKS, INC.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
and BEN CARSON, Secretary of the  
Department of Housing and Urban  
Development,

Defendants.

Civil Action No. 1:20-cv-11765

**DECLARATION OF LISA GUISBOND**

I, Lisa Guisbond, upon my personal knowledge, and in accordance with 28 U.S.C. § 1746(2), declare as follows:

1. I am over the age of eighteen. This declaration is made based on my personal knowledge and business records kept by Citizens for Public Schools ("CPS").
2. I serve as the Executive Director of CPS, a grassroots, membership organization that provides a unique forum for sharing information on critical policy issues, legislation, and education-related litigation. We closely monitor state legislative action, providing lawmakers with critical information on how bills and budget proposals may affect educational opportunity. Our Mission is to promote, preserve, and protect public schools and public education and to oppose any political or social initiative that seeks to infringe on or endanger this vital resource.
3. In my role as Executive Director of CPS, I coordinate and support our Board of Directors, CPS members, organizational partners and allies to develop and implement campaigns, materials and events to advance our mission and achieve our goals for public education.

**CPS' Work in Combatting Housing Segregation and Educational Inequality**

4. Since its inception in 1982, CPS has dedicated innumerable hours and resources to combatting the effects of government-sanctioned housing discrimination in

Massachusetts, which in turn has contributed to racially isolated and segregated schools and public-school districts.

5. To reduce racial isolation, CPS supported the establishment of Massachusetts' METCO program to integrate children from racially imbalanced Boston and Springfield schools into nearby, suburban school systems. To this day, CPS continues to support the program and to lobby the state legislature to adequately fund METCO.
6. Through the Massachusetts Coalition for Equitable Education, which was eventually merged into CPS, the organization pushed for measures to implement the Massachusetts Racial Imbalance Act by promoting voluntary desegregation programs, as well as enhanced funding measures to support urban school districts, which have high concentrations of English language learners, low-income students, and students with special needs.
7. CPS has long supported the use of race as one of the criteria for school assignments in Boston. Historical discriminatory practices, such as redlining and steering, coupled with contemporary zoning and social funding programs, have created profound segregation—indeed, Boston is one of the most segregated cities in the United States. As a result, the use of neighborhood as a criterion in school assignment, without any consideration of race, increases the segregation of schools to the detriment of all students.
8. CPS has joined with other education, parent, and civil rights organizations in the Boston Coalition for Education Equity, which is seeking an end to the discriminatory use of a private school admissions test for the city's three elite "exam" schools. Discriminatory admissions criteria result in the concentration of white, wealthy students at Boston Latin School, and the over-representation of low-income children of color in non-exam, "open admissions" high schools. CPS has been a consistent leader in the effort to roll back high-stakes standardized testing (HST) in Massachusetts. These efforts are in part driven by evidence that HST facilitates racism and segregation.

#### The Impact of the Challenged Rule on CPS and its Members

9. I understand that HUD has issued a final regulation on the disparate impact provisions of the Fair Housing Act (the "Final Rule"), and I have reviewed the rule.
10. As an organization with a strong interest in ensuring ongoing access to high-quality public schools for all children, regardless of race, national origin, ability, or language spoken at home, CPS is deeply concerned about the risk the Final Rule poses to our efforts to desegregate schools and school districts across the Commonwealth.
11. Decades of research, organizing, legislative lobbying, and firsthand experience have demonstrated to CPS and its members that housing policy is educational policy—that where a student lives is one of the best predictors of the quality of their school and their success at that institution.



12. A recent University of Massachusetts at Lowell study found that the number of intensely segregated public schools where non-white students are the overwhelming majority is rising across the state.<sup>1</sup> Our three largest cities, Boston, Springfield, and Worcester, have 12 percent of the state's schools but less than 8 percent of its racially diverse schools, where "racially diverse" is defined as having a student body composed of at least 25 percent white students and less than 70 percent of students from any one racial or ethnic group. The number of racially diverse schools in these cities fell from 58 in 2008-09 to 47 in 2019-20. The three big cities account for more than half of all intensely segregated non-white schools in the state, and 44 percent of the schools in those cities are intensely segregated. The study also found that non-White students are highly disproportionately concentrated in schools that fall in the lowest levels of the state's school accountability rating system. Low ratings lead to disruptive interventions by state and district officials and sometimes school closures.
13. Without federal efforts to discourage racial and ethnic discrimination in the suburbs, segregation and the concentration of non-white students in cities will only get worse.
14. In March 2013, the Boston School Committee approved the Home-Based Assignment Plan with the stated goal of providing greater access to quality schools closer to home. This decision recognized that, other things being equal, parents generally want and need their children to attend schools as close to home as possible. The proponents of the plan asserted that, despite de facto housing segregation in Boston, the plan would not make low-income children of color go to schools with low ratings. Five years later, a study commissioned by the School Committee found that the goal was not met.<sup>2</sup> The new assignment system increased racial segregation, although not by much. The study also found that students from White, wealthy neighborhoods had far greater access to top-rated schools while low-income, non-White students often had to accept placement in low-rated schools.
15. CPS published a study in 2013 that analyzed the demographics of schools that were closed between 2003 and 2012. 96 percent of the students in closed schools were non-white, compared with 87 percent in the district as a whole. Many of these schools were in neighborhoods of color.
16. Uniquely among other civil rights mechanisms, disparate impact litigation allows victims to challenge the covert discriminatory practices—ranging from landlords requiring prospective tenants to pay broker's fees to lenders offering higher-priced housing loans to applicants of color than their White counterparts—that hamper housing choice and perpetuate or reinforce segregation.

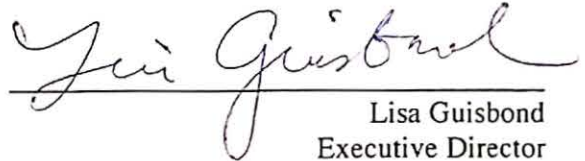
<sup>1</sup> Schneider, J., Piazza, P., Carey, A.J., and White, R.S. (2020). *School integration in Massachusetts: Racial diversity and state accountability*. Beyond Test Scores Project and Center for Education and Civil Rights.

<sup>2</sup> O'Brien, D. et al. (2018). *An evaluation of equity in the Boston Public Schools' home-based assignment policy*. Boston Area Research Initiative.

17. Weakening enforcement mechanisms for combating housing segregation, especially and including disparate impact theory, will make it harder to integrate public schools and districts in Massachusetts and across the country.
18. Similarly, if housing discrimination is permitted to go unchecked and unchallenged, poverty will become even more concentrated in the urban school districts that overwhelmingly educate children of color and immigrant children.
19. In Massachusetts, the Commonwealth determines a base level of per-student funding for each district, as well as how much the district should be able to raise through local taxes. The Commonwealth then, in theory, makes up any gap in funding, creating what is known as a "foundation budget." However, cities and towns are free to make additional local contributions beyond that required by the state law. As a result, wealthy, predominantly White districts like Wellesley and Newton spend thousands more per pupil than low-income, majority-minority districts like Lowell and Chelsea, leading to vastly different educational experiences and outcomes.
20. Our 2013 study found that Whiter, wealthier suburbs spent far above the minimum state standard per student, while low-income cities with mostly children of color struggled to just make that minimum. The minimum standard was based on 1993 school spending, but costs, especially for health care and special education, have risen greatly since then. High spending in these areas is required by regulations and contracts, so low-spending districts had to cut elsewhere. They did so by hiring fewer teachers for students without disabilities than the state model called for, leading to larger classes and less personal attention for these children. To that end, CPS was one of the leading organizations in the campaign to update the state formula and provide more funds for low-income cities.
21. This funding gap was created by the enormous disparities in wealth per student between most low-income cities and suburbs. The Final Rule will likely lead to even greater socio-economic and race segregation and a larger imbalance in the tax base for cities compared to the suburbs, which means students who need the most funding will receive the least.
22. By raising the bar for victims to bring disparate impact challenges to housing policies that keep people of color, immigrants, and other protected classes out of wealthy, predominantly White neighborhoods, HUD is depriving CPS, its members, and its client communities of a much-needed tool for deconcentrating poverty.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information and belief.

DATED this 28<sup>th</sup> day of September 2020, at Brookline, Massachusetts.

A handwritten signature in cursive script, reading "Lisa Guisbond", written over a horizontal line.

Lisa Guisbond  
Executive Director  
Citizens for Public Schools